

A manufacturer's rebate that is applied to the purchase price of an automobile is generally part of the gross receipts subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.101. (This is a GIL).

June 12, 2002

Dear XXXXXXXX:

This letter is in response to your letter dated March 26, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

Recently an audit of our sales tax ST-1 reports was completed. In addition, the ST-556's were also examined. A portion of the taxes assessed during this audit involved tax not being collected on 111, 222 AND 333 vehicle sales. It is the contention of your department that the commission paid to us on these sales to qualified AAA employees, retirees, or relatives, is actually a 'rebate' and therefore is taxable on each individual sale. We contend that since the price to the eligible AAA employee is fixed by the factory, the funds we receive is a 'commission' paid to the dealer for handling the transaction and is not taxable on a per sale basis but rather becomes a part of the overall dealership gross profit and is taxable on the annual 1040-IL.

Please respond with the department's ruling on the tax treatment of 111, 222, 333 sales. Also if the commissions (rebates) are taxable on a per unit basis, does that mean that the sum of the commissions (rebates) which is included in our gross profit should be deducted when completing our annual 1040-IL? We may have an issue of double taxation.

Your prompt response to our inquiry will be appreciated.

No information was provided regarding how the 111, 222, 333 work. However, we hope the following information is helpful.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. See 86 Ill. Adm. Code 130.101.

Gross receipts are defined as all the consideration actually received by the seller, except traded-in tangible personal property. See 86 Ill. Adm. Code 130.401. If sellers receive a rebate or reimbursement for a discount, the amount of that reimbursement or rebate is considered part of the gross receipts received by those sellers. This amount is fully taxable. An example is where a car dealer sells a vehicle for \$20,000 with a \$2,000 rebate. The purchaser pays \$18,000 to the dealer and the dealer receives a \$2,000 rebate from the manufacturer. In this example, the dealer's total gross receipts of \$20,000 are subject to Retailers' Occupation Tax.

If sellers provide discounts to purchasers and do not receive reimbursement for those discounts, only the (discounted) amounts received by those sellers are taxable. An example is where a car dealer sells a vehicle for \$20,000 and gives the purchaser a \$2,000 discount. The purchaser pays \$18,000 to the dealer and the dealer receives no other consideration from any other source. In this example, the dealer's total gross receipts of \$18,000 are subject to Retailers' Occupation Tax.

For your general information we have enclosed copies of 86 Ill. Adm. Code Section 130.420 (Discounts) and 130.2125 (Trading Stamps and Discount Coupons).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

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Enc.